



CENTER FOR JUSTICE AND CONSTITUTIONAL LITIGATION

At the Nevada Policy Research Institute

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CJCL files Supreme Court appeal in separation-of-powers case

CARSON CITY, Nev. — NPRI’s Center for Justice and Constitutional Litigation has just filed its Notice of Appeal escalating to the Nevada Supreme Court its case, [*Pojunis v. State of Nevada, et al.*](#) — a case which seeks to fully restore the separation-of-powers clause found in [Article 3, Section 1](#), of Nevada’s constitution.

Within hours of being served with the Complaint in December 2011, state Sen. Mo Denis announced his resignation from his executive-branch employment with the Public Utilities Commission of Nevada. Despite the important principle at stake and well-established, applicable exceptions to the “mootness doctrine,” First Judicial District Court Judge James T. Russell ruled the case was mooted by Sen. Denis’ resignation.

Joseph Becker, chief legal officer and director of CJCL, took issue with Judge Russell’s decision and released the following comments:

There are several well-established and compelling exceptions to the mootness doctrine that show why the Nevada Supreme Court should allow [*Pojunis v. State of Nevada, et al.*](#) to proceed. Among them is the “Public Interest” exception, and it is hard to imagine a case that better satisfies the “Public Interest” exception to the mootness doctrine than this one.

[Article 3, Section 1](#), of Nevada’s constitution says, “The powers of the Government of the State of Nevada shall be divided into three separate departments, the Legislative, the Executive, and the Judicial; and no persons charged with the exercise of powers properly belonging to one of these departments shall exercise any functions appertaining to either of the others . . .”

This makes it perfectly clear that a sitting legislator cannot hold a job in the executive or judicial branch of government, and yet, there are at least 14 conflicting attorney general’s opinions on this issue and no fewer than six current legislators who also hold jobs in the executive or judicial branch of state government.

This is the same separation-of-powers clause that the [Nevada Supreme Court has written](#) “is probably the most important single principle of government declaring and guaranteeing the liberties of the people.” The court has also written that “[t]he separation of powers; the independence of one branch from the others; the requirement that one department cannot exercise the powers of the other two is fundamental in our system of government.”

Agreeing with the Nevada Supreme Court that the separation-of-powers clause is “fundamental in our system of government,” we believe strongly that this case meets the “Public Interest” exception to the mootness doctrine and should be allowed to proceed.

Even Governor Brian Sandoval, chief executive of the State of Nevada, which is also a named defendant in the lawsuit, has stated that this lawsuit “brings up a very important constitutional issue.” Further, in regard to the separation-of-powers issue raised by this lawsuit, Governor Sandoval has implored the Supreme Court to “[s]ettle it once and for all.”

Upholding the constitution’s separation-of-powers clause is a fundamental and “public” legal issue, and we urge the Nevada Supreme Court to let this case proceed.

[CJCL’s Notice of Appeal in *Pojunis v. State of Nevada, et al.* is available here.](#)

[CJCL’s Case Appeal Statement in *Pojunis v. State of Nevada, et al.* is available here.](#)

More information on the case, including the original lawsuit, is available at the Center for Justice and Constitutional Litigation’s website at <http://justice.npri.org/cases/pojunis-v-state-of-nevada/>.

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